

**BOSE
McKINNEY
& EVANS LLP**

ATTORNEYS AT LAW



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Downtown Office
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September 30, 2002

Via Overnight Mail

Ms. Debra Regel
U.S. EPA - Region 5
Emergency Enforcement &
Support Section SE-5J
77 West Jackson Boulevard
Chicago, IL 60604-3590

**RE: Response to General Notice of Potential Liability
Gary Development Landfill Site, 479 North Cline Avenue, Gary, Indiana
Cause No. 2:96CV489RL
Our File No. 9273-2**

Dear Ms. Regel:

On behalf of our clients, William Nanini, former President and Director of Gary Development Company, Inc. (Gary Development) and Lawrence H. Hagen, Sr., former Executive Vice President, we are in receipt of your General Notice of Potential Liability letter dated September 11, 2002, which was received by Mr. Hagen on September 18, 2002 and Mr. Nanini on September 19, 2002. The September 11, 2002 letter, signed by Mr. Richard C. Karl, Chief of the Emergency Response Branch of the United States Environmental Protection Agency (USEPA) unfortunately disregards the past settlement reached between Gary Development and USEPA and the current status of the site. Specifically, USEPA and Gary Development entered into a Consent Decree on July 7, 1997, under the jurisdiction of the United States District Court, Northern District of Indiana, in the above-referenced cause, which resolved our client's liability in this matter. (See attached Consent Decree signed by Bose McKinney & Evans on July 7, 1997 and entered by the Court on July 30, 1997). Moreover, Mr. Nanini and Mr. Hagen have had no access to the site subsequent to execution of the Consent Decree.

History of Settlement

The Consent Decree settled the May 30, 1986 Complaint and Compliance Order against Gary Development and recognized that Gary Development did not have sufficient financial resources to comply with the April 8, 1996 Decision and Order. In compliance with the Consent Decree, Gary Development paid \$86,000 as a civil penalty, created an Irrevocable Trust entitled Gary Development Company Landfill Fund Trust (GDCLF Trust), and designated the Indiana

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Department of Environmental Management (IDEM) as the Beneficiary. (See attached Trust Agreement for Gary Development Company Landfill Trust). Simultaneously with the creation of the GDCLF Trust, Gary Development sold all of its equipment for the purposes of satisfying the penalty and paying \$40,000 into the GDCLF Trust account, held by National City Bank of Indiana as Trustee. The Trust Agreement was signed by Gary Development, the Commissioner of IDEM and National City Bank in August of 1997. The parties agreed that all monies in the GDCLF Trust would be used by IDEM for the purposes of performing landfill closures and post-closure activities.

Upon settlement of the Consent Decree and Trust Agreement, Gary Development installed heavy-duty chains and locks on the gates entering the property (the landfill operation had been previously closed on August 31, 1989) in order to protect against looters and unauthorized dumping on the site. At that time, there was no waste remaining on the site. Prior to the time that the gates were locked, Gary Development had provided full-time security guards at the site, as well as an employee during the day, to insure that nothing was dumped on the site because unauthorized dumping has been a problem in this area of Gary for many years.

Gary Development was dissolved by the State of Indiana, Office of the Secretary of State, as of April 7, 1998. I have attached for your convenience the Articles of Dissolution, as well as the Certificate of Dissolution.

On July 22, 1999, Gary Development received a letter confirming closure of the case from Mr. Joshua M. Levin, Trial Attorney Environmental Trial Defense Section, United States Department of Justice, stating that:

“[t]his letter confirms that, as determined by U.S.EPA, your client, Gary Development Company, Inc., has paid the full \$86,000 penalty and contributed \$40,000 into GDCLF Trust, as required by paragraphs 8 and 13 of the consent decree entered into July 7, 1997. The U.S.EPA has also determined that Gary Development has provided it with copies of its federal and state tax returns, and in accordance with paragraph 17 of the Consent Decree.

Accordingly, the U.S.EPA considers this action between the parties closed, subject to the “reservation of rights” and the “reopener” provisions contained in Sections 1X and X of the Consent Decree”.

Ms. Debra Regel
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We have attached Mr. Levin's letter for your convenience. Clearly, this case is considered closed by USEPA, and Mr. Nanini and Mr. Hagen have performed their duties under the Consent Decree, thus resolving the matter as it relates to them. Therefore we are at a loss to understand why the September 11th letter from USEPA was addressed to Mr. Nanini or sent to Mr. Hagen.

Responsibility and Site Access Transferred to IDEM:

On or about November 18, 1999, I was contacted by Mr. Matt Klein of IDEM, informing me that IDEM planned to perform surveying work at the Gary Development Landfill as part of its duties under the Trust Agreement. In further discussions with Mr. Klein on November 23, 1999 and December 9, 1999, Mr. Klein agreed that IDEM would cut the locks on the gates and install its own locks to complete the surveying work and begin working on the cap. It was also agreed that, because Mr. Nanini and Mr. Hagen would be denied access to the site and IDEM would be installing its own locks, our client would take no responsibility for the site. Importantly, no keys to IDEM's locks were ever sent to my client or to me, nor was the status of the site ever discussed with either Mr. Nanini, Mr. Hagen, myself, or any of my partners or associates at Bose McKinney & Evans LLP following IDEM's occupation of the site.

At the time IDEM took over the site, the only persons with access to the site would have been IDEM and possibly Vulcan Industries, n/k/a AMG Industries. (It is our understanding that because the former Gary Development Landfill site was landlocked, Gary Development had an easement from Vulcan. When our client occupied the property, Vulcan's road and railroad spur went through Gary Development's site, but we do not know whether this is still the case.)

Questioning of Former Employee:

It has come to our attention that on or about September 16, 2002, Mr. Reginald Arkell, Civil Investigator, Office of Criminal Enforcement Forensics and Training, questioned a former employee, Mr. Lawrence Hagen, Jr., (the son of Lawrence H. Hagen, Sr.), regarding daily work procedures and management of Gary Development. Specifically, we have been informed that Mr. Arkell threatened to place Mr. Hagen under arrest if he did not answer these questions about the former landfill operation. During the course of this interrogation, which seemingly threatened criminal sanctions, Mr. Hagen repeatedly stated that he was disabled and on pain medication and that he wished to speak with a court-appointed lawyer. His request was apparently derisively denied. While we do not represent Mr. Larry Hagen, Jr., it seems

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inappropriate to pursue questions about the operation of the landfill years after the requirements of the Consent Decree have been satisfied and, in the words of Mr. Levin's letter as previously quoted, "U.S. EPA considers this action between the parties closed."

We urge you to reconsider USEPA's current actions in light of the attached information. Our client has not had access to the former Gary Development property since at least 1998, and thus, has no knowledge regarding the current status of the site. If you have further questions regarding the materials dumped on the site since that time, we suggest you pursue those concerns with IDEM or anyone else who may have had access.

It is very unfortunate that this matter has arisen, as Mr. Hagen, Sr. lives out of state and is retired and Mr. Nanini is ninety years old, lives out of state, and suffers from serious health problems. They are extremely distraught by the September 11th letter and recent events surrounding the apparent reopening of the matter they considered to be closed with the settlement and the payment of the amounts described above.

After you have had an opportunity to review this matter, I would appreciate your contacting Kathleen G. Lucas at (317) 684-5232 or me at (317) 684-5124 to discuss USEPA's actions as they relate to our client. Thank you for your cooperation.

Sincerely,

BOSE McKINNEY & EVANS LLP



Lisa McKinney Goldner

LMG/kd

cc: Richard C. Karl, Chief Emergency Response Branch
Mary Beth Tuohy, IDEM
William Nanini
Lawrence Hagen, Sr.

RECEIVED

97 JUL 11 AM 9:03

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

97 JUL 10 PM 11:25

GARY DEVELOPMENT COMPANY,
INC.,

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Defendant.

Case No. 2:96CV489 RL

CONSENT DECREE

I. INTRODUCTION

WHEREAS, Plaintiff, Gary Development Company, Inc. ("Gary Development") owns certain real property at 479 North Cline Avenue in Lake County, Gary, Indiana, hereinafter referred to as the "Site;"

WHEREAS, Gary Development owns and operates a landfill on said above property;

WHEREAS, Gary Development officially ceased operations and stopped accepting waste on August 31, 1989;

WHEREAS, on May 30, 1986, Region 5 of the United States Environmental Protection Agency ("EPA") issued a Complaint and Compliance Order against Gary Development, alleging that the company had unlawfully accepted hazardous waste for disposal at the landfill which had neither achieved interim status under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C §§ 6901-6992k, nor obtained a RCRA permit;

WHEREAS, the Indiana State Board of Health, the predecessor to the Indiana Department of Environmental Management, referred the alleged violations asserted in the May 30, 1986 Complaint and Compliance Order to Region 5 of EPA for enforcement;

WHEREAS, on April 8, 1996, and after a hearing on the matter, the administrative law judge issued a Decision and Order in favor of EPA ("April 8, 1996 Decision and Order");

WHEREAS, on June 21, 1996, Gary Development appealed the April 8, 1996 Decision and Order to EPA's Environmental

Appeals Board ("EAB");

WHEREAS, on August 16, 1996, the EAB dismissed the appeal as untimely;

WHEREAS, on September 16, 1996, Gary Development commenced a civil action in the United States District Court for the Northern District of Indiana captioned Gary Development Company, Inc. v. United States Environmental Protection Agency, Case No. 2:96CV489 RL ("Civil Action");

WHEREAS, Gary Development alleges in the Civil Action that the EAB wrongfully dismissed its appeal as untimely and requested the Court to reverse the August 16, 1996 decision of the EAB and to remand the case for consideration of the merits of its appeal;

WHEREAS, EPA believes that the EAB properly dismissed Gary Development's appeal as untimely under applicable regulations, 40 C.F.R. Part 22;

WHEREAS, Gary Development has represented to EPA that it does not have sufficient financial resources to comply with the April 8, 1996 Decision and Order;

WHEREAS, the Indiana Department of Environmental Management has been informed of the Consent Decree; and

WHEREAS, Plaintiff Gary Development and Defendant, the United States of America, on behalf of its agency, EPA, hereby agree to compromise and resolve their differences, and thereby avoid the expense and inconvenience of further litigation concerning Gary Development's demands and allegations, and in so

doing to settle, discontinue, and end the present action pending between them on the terms and conditions set forth below.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, AND
DECREED:

II. JURISDICTION

1. Gary Development and the United States agree that the United States District Court for the Northern District of Indiana has subject matter jurisdiction over the matters alleged in this civil action and this Consent Decree. Solèly for the purposes of this Consent Decree and the underlying complaints, the Parties waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. The Parties shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. The Parties to this Consent Decree are Plaintiff, Gary Development Company, Inc. and Defendant, the United States of America, on behalf of its agency, the United States Environmental Protection Agency ("EPA").

IV. DEFINITIONS

3. The following terms shall have the following definitions when used in this Agreement:
 - A. "Civil Action" means Gary Development Company, Inc. v. United States Environmental Protection Agency, Case No. 2:96CV489 RL.
 - B. "Gary Development" means Gary Development Company, Inc., its divisions, officers, directors and employees.
 - C. "EPA" shall mean the United States Environmental Protection Agency.
 - D. "Site" means the real property located at 479 North Cline Avenue in Lake County, Gary, Indiana, and owned and operated by Gary Development.
 - E. "United States" shall mean the United States of America, its department, agencies, and instrumentalities.

V. SETTLEMENT OF DISPUTED CLAIMS

4. This Consent Decree was negotiated and executed by Gary Development and the United States in good faith to avoid prolonged and complicated litigation and to further the public interest.
5. This Consent Decree represents a fair, reasonable and equitable settlement in light of the facts of

the case and projected costs of litigation.

6. Nothing in the Consent Decree shall be construed as an admission or acknowledgment of liability or responsibility whatsoever on the part of any party hereto or, their past and present agents, its divisions, subsidiaries, officers, directors, representatives and employees, each of whom expressly denies all liability, responsibility, or wrongdoing of any nature.
7. This Consent Decree constitutes the entire settlement between the Parties.

VI. OBLIGATIONS OF GARY DEVELOPMENT

8. Gary Development shall pay \$86,000 as a civil penalty within fifteen (15) days after the effective date of this Consent Decree.
9. The payment in Paragraph 8 shall be made by certified check, payable to the "Treasurer, United States of America." The check shall be mailed to:

U.S. EPA
Region V
Regional Finance Office
P.O. Box 70753
Chicago, Illinois 60673.

The face of the check shall be clearly marked with "Gary Development Company, Inc." and "Docket No.: RCRA V-W-86-R-45." Notice that payment has been mailed to the United States, including copies of the payment and transmittal of payment, shall be

sent to:

Arlene Haas
Assistant Regional Counsel
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Mail code C-29A
Chicago, Illinois 60604-3590

Chief, Environmental Defense Section
U.S. Department of Justice
Environment & Natural Resources Division
P.O. Box 23986
Washington, D.C. 20026-3986

10. Gary Development shall not claim a Federal income tax deduction or credit covering all and any part of the civil penalty paid the U.S. Treasury.
11. As soon as practicable, but no later than 30 days after the effective date of this Consent Decree, Gary Development shall create an irrevocable trust titled "Gary Development Company Landfill Fund Trust" ("GDCLF Trust") and designating the Indiana Department of Environmental Management as a beneficiary.
12. The Parties agree that Gary Development must create the trust fund in a federally insured financial institution. For purposes of the creation of the trust, the Parties agree that Gary Development shall use the attached Trust Agreement. See Attachment A.
13. Simultaneous with the creation of the GDCLF Trust, Gary Development shall pay \$20,000 into the GDCLF

Trust account. Gary Development will pay an additional \$20,000 into the GDCLF Trust account fifteen (15) days thereafter, or a total of forty-five (45) days after the effective date of this Consent Decree.

14. The GDCLF Trust shall be irrevocable, and Gary Development shall not retain any interest whatsoever in the corpus or proceeds of the trust.
15. The Parties agree that all monies in the GDCLF Trust shall be used solely for the purposes of performing a landfill closure and post-closure care activities in accordance with 329 IAC 3.1-10-1 and 3.1-10-2, incorporating by reference 40 C.F.R. Subpart G and section 265.310, and any amendments that may be made to these sections of the Indiana Administrative Code, a groundwater quality assessment program in accordance with 329 IAC 3.1-10-1 and 3.1-10-2, incorporating by reference 40 C.F.R. Subpart F, and any amendments that may be made to these sections of the Indiana Administrative Code, remediation of contamination and/or the prevention of the release of hazardous substances at the Site.
16. The parties agree that the terms of settlement reflected in this Consent Decree have been limited because of Gary Development's financial inability

to perform closure and post-closure activities required by the May 30, 1996 Complaint and Compliance Order, as indicated in the "Declaration of William Nanini In Support Of Consent Decree Between Gary Development Company, Inc. And The United States Environmental Protection Agency," attached hereto as Attachment B. Therefore, in the event that Gary Development files a petition for relief under the United States Bankruptcy Code and has not previously complied with the requirements of this Consent Decree in paragraphs 8-14 above, then notwithstanding any other provision of this Consent Decree, the parties agree that the United States may seek to enforce or pursue all causes of action that it has against Gary Development under the May 30, 1986 Complaint and Compliance Order for the performance of landfill closure and post-closure activities. The parties further agree that in the event that Gary Development files such a petition for relief prior to its compliance with paragraphs 8-14 of this Consent Decree, it shall, on the date the petition is filed, provide Region 5 of EPA with written notice on the date the petition is filed. Such notice shall be mailed to the following address:

Arlene Haas
Assistant Regional Counsel
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Mail Code C29-A
Chicago, Illinois 60604-3590

17. Gary Development shall provide EPA with a copy of its federal and state tax returns on an annual basis as long as the company is in existence. Gary Development shall provide a copy of the tax returns within fifteen (15) days of filing the originals with the Internal Revenue Service and/or the state's Department of Treasury.
18. Gary Development shall bear its own costs and attorneys' fees for all matters resolved by this Consent Decree.

VII. OBLIGATIONS OF EPA

19. Except as provided for in Section X (Reopener), EPA shall not seek administrative or civil judicial enforcement of the injunctive relief contained in its May 30, 1986 Complaint and Compliance Order issued to Gary Development.
20. Upon payment as provided in Paragraph 8, EPA agrees that the penalty payment required by the April 8, 1996 Decision and Order is fully satisfied.
21. Upon payment as provided in Paragraph 8, EPA waives its right to initiate a civil judicial action to seek any penalties resulting from Gary

Development's failure to comply with the May 30, 1986 Complaint and Compliance Order.

22. EPA shall bear its own costs and attorneys' fees for all matters resolved by this Consent Decree.

VIII. RELEASE AND COVENANT NOT TO SUE

23. In consideration of EPA's agreement not to seek administrative or civil judicial enforcement of the May 30, 1986 Complaint and Compliance Order, Gary Development hereby forever releases, discharges and covenants and agrees not to assert any and all claims, causes of action, or demands of any kind whatsoever in law or in equity which it may have had, or may now or hereafter have, against the United States, including its departments, agencies and instrumentalities, based upon matters which have been asserted, or which could have been asserted, in the Civil Action.

IX. RESERVATION OF RIGHTS

24. Notwithstanding Paragraph 23 above, nothing in this Consent Decree shall be construed as a waiver of any rights which the Parties to this Consent Decree may have in a suit to enforce the terms of this Consent Decree.
25. Nothing in this Consent Decree, nor any negotiations, discussions, or proceedings conducted herewith, shall constitute an admission

of any liability on the part of either Gary Development or EPA or of the merit or lack of merit of any claims or defenses made by Gary Development or EPA. Nor shall this Consent Decree, or any negotiations or proceedings conducted herewith, be offered or received in evidence or used in any proceedings against either Gary Development or EPA for the purpose of establishing proof of any fact including but not limited to the environmental conditions of the Site, excepting proof of the existence, validity and enforceability of this Consent Decree or its terms.

26. The agreements of EPA in paragraphs 19-22 do not pertain to any matters other than those expressly provided therein. As to all other matters, this Consent Decree is without prejudice to, and the United States expressly reserves, all claims or rights relating to the release, threat of release or presence of hazardous substances, toxic substances, contaminants, pollutants or wastes at the Site. This reservation includes, but is not limited to, the claims or rights of EPA and any Federal natural resource trustee under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42

U.S.C. §§ 9601 et seq., or under any other federal environmental law.

X. REOPENER

27. The Parties agree that if Gary Development, or its successor, or any of its shareholders, directors, or officers, individually, conduct profit making activities of whatever kind, including the sale of any portion of the property owned by Gary Development, with the exception of the sale of the personal property and/or equipment owned by Gary Development and sold for the purposes of satisfying the terms of this Consent Decree set forth in Paragraph 13, this Consent Decree may be reopened by EPA solely to renegotiate the terms of the GDCLF Trust for the purpose of supplementing the requirements of Paragraphs 11-16, above. The request to reopen shall be made in writing.
28. Gary Development agrees to provide Region 5 of EPA notice thirty (30) in advance of any sale of property, with the exception of the sale of the personal property and/or equipment owned by Gary Development and sold for the purposes of satisfying the terms of this Consent Decree set forth in Paragraph 13. Such notice shall be sent to the following address:

Arlene Haas
Assistant Regional Counsel
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Mail Code C29-A
Chicago, Illinois 60604-3590

Director
Waste, Pesticides and Toxics Division
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Mail Code D-8J
Chicago, Illinois 60604-3590

29. Within 30 days of the completion of the sale of the personal property and/or equipment owned by Gary Development and sold for the purposes of satisfying the terms of this Consent Decree set forth in Paragraph 13, Gary Development shall provide EPA with an accounting of the net proceeds from the sale(s). Such accounting shall be sent to:

Arlene Haas
Assistant Regional Counsel
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Mail Code C29-A
Chicago, Illinois 60604-3590

Director
Waste, Pesticides and Toxics Division
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Mail Code D-8J
Chicago, Illinois 60604-3590

30. If the Consent Decree is reopened in accordance with Paragraph 27 and the Parties are unable to

reach an agreement within 120 days of the date of the letter requesting reopener, the Parties agree to discuss alternative dispute resolution. If an agreement cannot be reached within 10 days with respect to participation in alternative dispute resolution, the Parties agree to submit their dispute to the Court.

31. In any such civil judicial proceeding described in Paragraph 30 above, Gary Development, its successors, and its shareholders or directors individually, agree not to challenge the validity of the May 30, 1986 Complaint and Compliance Order.

XI. REPRESENTATIONS

32. The Parties hereto represent that they are the sole possessors of all the claims or causes of action being released and that they have not assigned or otherwise transferred said claims or causes of action.
33. Gary Development represents that there are no liens on the property as of the date of this Consent Decree.
34. EPA represents that it has informed Indiana Department of Environmental Management, and the Watershed and Non-Point Source Program Branch and the Water Enforcement and Compliance Assurance

Branch of the Water Division of Region 5 of EPA of this Consent Decree.

35. All Parties agree that this Consent Decree is entered into by them pursuant to and with the assistance of competent legal advice. They further acknowledge that they have read and fully understand each and every provision of this Consent Decree and the Attachments hereto.
36. Each party hereto warrants and represents to the others that its representative who is executing this Consent Decree has the authority to bind its principal to the terms and conditions contained in this Consent Decree.

XII. INTENT TO CONTRACT AND BIND SUCCESSORS

37. This Consent Decree constitutes the final and entire understanding and agreement of the Parties with respect to its subject matter, and no other statements, promises, terms, representations or inducements, oral or written, by either party, shall be binding or valid.
38. This Consent Decree shall be binding upon the Parties hereto, and upon their successors and assigns, any parent or subsidiary or affiliated companies, shareholders, officers, directors, representatives and trustees.

XIII. GOVERNING LAW

40. This Consent Decree shall be administered, construed, and enforced according to the laws of the United States of America.

XIV. ENFORCEMENT OF CONSENT DECREE

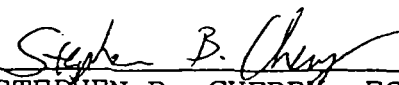
41. Gary Development and the United States agree that the Court shall retain jurisdiction over this Consent Decree until the requirements of the Consent Decree have been satisfied. In any action brought by Gary Development or the United States to enforce this Consent Decree, each party shall retain whatever defenses are available to it under law.

XV. EFFECTIVE DATE

42. The effective date of this Consent Decree shall be the date upon which it is entered by the Court.

IN WITNESS WHEREOF, the Parties hereto enter into this Consent Decree.

ON BEHALF OF GARY DEVELOPMENT COMPANY:



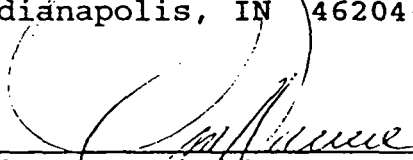
STEPHEN B. CHERRY, ESQ.
LISA MCKINNEY GOLDNER, ESQ.
Bose McKinney & Evans
135 North Pennsylvania Street
Suite 2700
Indianapolis, IN 46202

Dated: July 7, 1997



Dated: 7-9-97

WARREN D. KREBS, ESQ.
Dutton & Overman, P.C.
710 Century Building
36 South Pennsylvania Street
Indianapolis, IN 46204-2963



Dated: 7-9-97

William Nanini
President and Director
Gary Development Company, Inc.

ON BEHALF OF THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY:

Lois A. Schiffer
Assistant Attorney General
Environment & Natural Resources Division



Dated: 6/30/97

JOSHUA LEVIN
Trial Attorney
U.S. Department of Justice
Environment & Natural Resources
Division
Environmental Defense Section
P.O. Box 23986
Washington, D.C. 20026-3986
(202) 514-4198

OF COUNSEL:

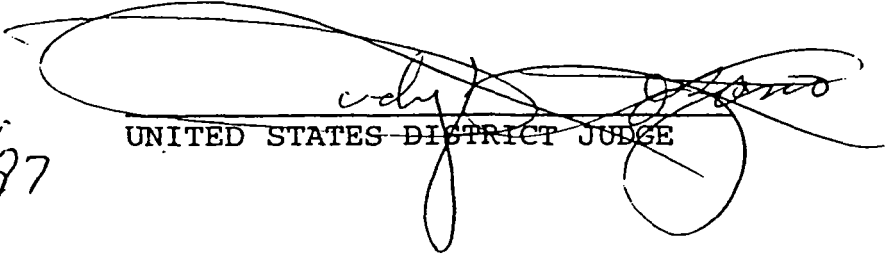
ARLENE R. HAAS
Assistant Regional Counsel
Region V
U.S. Environmental Protection Agency
77 W. Jackson Blvd.
Mail Code C-29A
Chicago, IL 60604-3590

BARBARA E. PACE
Office of General Counsel
U.S. Environmental Protection Agency
401 M Street S.W.
Washington, D.C. 20460

IT IS SO ORDERED:

Dated:

7/30/97


UNITED STATES DISTRICT JUDGE

ATTACHMENT A

TRUST AGREEMENT FOR GARY DEVELOPMENT COMPANY LANDFILL FUND

This Trust Agreement is made among Gary Development Company, Inc. ("Gary Development") and National City Bank of Indiana, as Trustee of the Trust, which shall also be known as the Gary Development Company Landfill Fund Trust ("GDCLF Trust"), for the benefit of the Indiana Department of Environmental Management ("IDEM"), the Beneficiary.

WHEREAS, Gary Development owns and operates a landfill at 479 North Cline Avenue in Lake County, Gary, Indiana (the "Site");

WHEREAS, Gary Development officially ceased operations and stopped accepting waste on August 31, 1989;

WHEREAS, on May 30, 1986, Region 5 of the United States Environmental Protection Agency ("EPA") issued a Complaint and Compliance Order against Gary Development, alleging that the company had unlawfully accepted hazardous waste for disposal at the landfill which had neither achieved interim status under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901-6992k, nor obtained a RCRA permit;

WHEREAS, the Indiana State Board of Health, the predecessor to the IDEM, referred the alleged violations asserted in the May 30, 1986 Complaint and Compliance Order to EPA, Region 5 for enforcement;

WHEREAS, on April 8, 1996, the administrative law judge issued a Decision and Order in favor of EPA ("April 8, 1996 Decision and Order");

WHEREAS, on June 21, 1996, Gary Development appealed the Decision and Order to EPA's Environmental Appeals Board ("EAB");

WHEREAS, on August 16, 1996, the EAB dismissed the appeal as untimely;

WHEREAS, on September 16, 1996, Gary Development commenced a civil action in the United States District Court for the Northern District of Indiana captioned Gary Development Company, Inc. v. United States Environmental Protection Agency, Case No. 2:96CV489 RL ("Civil Action");

WHEREAS, Gary Development alleges in the Civil Action that the EAB wrongfully dismissed its appeal as untimely and requested the Court to reverse the August 16, 1996 decision of the EAB and remand the case for consideration of the merits of its appeal;

WHEREAS, EPA believes that the EAB properly dismissed Gary Development's appeal as untimely under applicable regulations, 40 C.F.R. Part 22;

WHEREAS, Gary Development has represented to EPA that it does not have sufficient financial resources to comply with the April 8 1996 Decision and Order;

WHEREAS, EPA and Gary Development have entered into a Consent Decree in order to settle the Civil Action (the "Consent Decree");

WHEREAS, IDEM has been informed of the terms of the Consent Decree;

WHEREAS, Gary Development has agreed in the Consent Decree, among other things, to pay \$40,000 into the GDCLF Trust established by this Trust Agreement;

WHEREAS, the sole purpose of the GDCLF Trust established under this Trust Agreement is to fund landfill closure and post-closure care activities, a groundwater quality assessment program, remediation of contamination and/or the prevention of the release of hazardous substances at the Site; and

WHEREAS, Gary Development, wishing to appoint National City Bank of Indiana, as Trustee of said funds, and National City Bank of Indiana, wishing to accept said appointment, and Gary Development wishing to establish the terms of said trust relationship, have entered into this Trust Agreement and desire to place same on the public record.

NOW THEREFORE, in consideration of the mutual promises, covenants, terms, conditions and agreements contained herein, the parties hereto agree as follows:

ARTICLE I ESTABLISHMENT OF THE TRUST

Section 1.01 Name. The Trust created by this Trust Agreement shall be known as the "Gary Development Company Landfill Fund Trust," or "GDCLF Trust," and the business and affairs of the Trust may be transacted in that name.

Section 1.02 Trustee. The Trustee of the GDCLF Trust is the National City Bank of Indiana, 101 W. Washington Street, Suite 600 East, P.O. Box 5031, Indianapolis, IN 46255.

Section 1.03 Beneficiary. The Beneficiary of the GDCLF Trust is the Indiana Department of Environmental Management ("IDEM").

Section 1.04 Commissioner of IDEM. "Commissioner of IDEM" means the Commissioner of IDEM and the Commissioner of IDEM's authorized representatives.

Section 1.05. Transfer of Assets to Trust.

(a) Gary Development hereby absolutely and irrevocably assigns, conveys and transfers to the GDCLF Trust, for the benefit of the Beneficiary, \$40,000 paid pursuant to paragraph 13 of the Consent Decree. Simultaneous with the creation of the GDCLF Trust, Gary Development shall pay \$20,000 into the GDCLF Trust account. Gary Development will pay an additional \$20,000 into the GDCLF Trust account fifteen (15) days thereafter.

(b) The \$40,000 paid pursuant to the Consent Decree, plus any other funds, tangibles, intangibles, real or personal property paid or transferred into the GDCLF Trust from any other source, including any proceeds, revenues, or interest collected by or paid into the GDCLF Trust, shall collectively be referred to herein as the "Trust Assets."

(c) Gary Development has funded the GDCLF Trust pursuant to a requirement in the Consent Decree. With the exception of the obligation to establish and fund the GDCLF Trust as provided herein and in the Consent Decree, Gary Development shall have no rights, duties, obligations, liabilities, or fiduciary responsibilities of any kind in any way connected or related to the GDCLF Trust, or with management of the GDCLF Trust, the use of funds held in the GDCLF Trust, property acquired with GDCLF Trust funds, or activities, work, or projects funded by the GDCLF Trust. This Trust is irrevocable and Gary Development retains no interest whatsoever in the corpus or proceeds of this Trust.

Section 1.06. Acceptance of Trust. The GDCLF Trust Trustee hereby accepts the Trust imposed upon it by this Trust Agreement and agrees to observe and perform that Trust, upon and subject to the terms and conditions set forth herein, in a fiduciary capacity for the benefit of the Beneficiary.

Section 1.07. The Trust Assets. The GDCLF Trust Trustee shall hold all of the Trust Assets in trust, to be administered and disposed of by the GDCLF Trust Trustee pursuant to the terms of this Trust Agreement.

Section 1.08. Purpose of Trust. The GDCLF Trust is organized for the purpose of performing landfill closure and post-closure care activities in accordance with 329 I.A.C. 3.1-10-1 & 3.1-10-2, incorporating by reference 40 C.F.R. Subpart G & § 265.310, and any amendments that may be made to these sections of the Indiana Administrative Code; a groundwater quality assessment program in accordance with 329 I.A.C. 3.1-10-1 & 3.1-10-2, incorporating by reference 40 C.F.R. Subpart F, and any amendments that may be made to these sections of the Indiana Administrative Code; remediation of contamination and/or the prevention of the release of hazardous substances at the Site.

Section 1.09. Intention to Create Trust. The parties to this Trust Agreement intend to create a trust and a trust relationship with the terms and conditions hereof and the terms and conditions of Indiana Law. Nothing set forth herein or in any provision of law shall be deemed

to create or give rise to a partnership, joint venture or any other business entity, including, but not limited to, a business trust, or principal and agent relationship between and among any of the parties hereto.

ARTICLE II

ADMINISTRATION OF THE TRUST

Section 2.01. Trustee's Powers. In administering the GDCLF Trust, the Trustee shall receive and hold the Trust Assets, shall have general administrative supervision of the operation of the GDCLF Trust, and shall conduct the business and activities of the GDCLF Trust in accordance with the instructions given to the Trustee by the Commissioner of IDEM.

Section 2.02. Engagement of Professionals. The Trustee may engage counsel, investment advisors and custodians, agents, accountants and consultants in protecting, defending, enforcing or performing the Trustee's rights and duties hereunder or in carrying out the activities directed to be undertaken by the Commissioner of IDEM.

Section 2.03. Taxes. The Trustee shall timely prepare and file such income tax and other returns and statements as are required to comply with the applicable provisions of the Internal Revenue Code and of any state law and the regulations promulgated thereunder and shall pay in full the taxes, if any, required to be paid by it. All taxes of any kind that may be assessed or levied against or in respect to the Trust shall be paid from the Trust Assets.

Section 2.04. Annual Valuation. The Trustee shall annually, at least thirty (30) days prior to the anniversary date of the establishment of the GDCLF Trust, furnish to the Commissioner of IDEM a statement confirming the value of the Trust, a statement of all expenditures and income of the Trust and any other reports reasonably requested by the Commissioner of IDEM. Any securities in the Trust shall be valued at the market value as of no more than sixty (60) days prior to the anniversary date of the establishment of the GDCLF Trust.

Section 2.05. Payment of Expenses and Other Liabilities. The Trustee shall make all payments and execute all documents necessary to carry out those activities authorized by this Trust Agreement to be taken by the Trustee, and such other activities as directed or authorized by the Commissioner of IDEM. The Trustee may from time to time make provision by reserve or otherwise, out of the Trust Assets, for such reasonable amount or amounts as the Trustee may determine to be necessary or advisable to meet unascertained, unliquidated, or contingent administrative liabilities of the GDCLF Trust. Notwithstanding any other provision in this Trust Agreement, the Trustee shall provide twenty (20) days prior written notice to the Commissioner of IDEM of any expenses, fees, or costs, to be paid to, or for the benefit of, the Trustee.

Section 2.06. Compliance with Applicable Law. In carrying out the activities pursuant to this Trust Agreement, the Trustee shall comply with all applicable federal, state, and local laws and regulations.

ARTICLE III FUNDS, PAYMENTS AND INVESTMENTS

Section 3.01. Investment Guidelines. Unless directed otherwise by the Commissioner of IDEM, the Trustee shall deposit or invest all Trust Assets in (a) securities or other obligations of a federal or state government, (b) time or demand deposits to the extent insured by an agency of federal or state government, or (c) mutual funds comprised solely of obligations of state or federal governments; except that the Trustee is authorized to hold uninvested cash awaiting investment or distribution for a reasonable time.

Section 3.02. Appointment of Custodian. The Trustee may, with the approval of the Commissioner of IDEM, appoint a financial institution to serve as the Custodian of the Trust Assets. In appointing a Custodian, the Trustee shall solicit from financial institutions proposals setting forth all fees, charges, and other costs for the Custodian's proposed services; and the Trustee, prior to entering into a written contract for the Custodian's services, obtain the approval of the Commissioner of IDEM as to the terms and conditions of the proposed written agreement with the Custodian.

Section 3.03. Trust Account and Segregated Account. The Trustee shall maintain the \$40,000 received from Gary Development pursuant to the Consent Decree, as well as any income generated from the \$40,000, in a Segregated Account held separately from moneys received from any other source, and shall apply the money received from Gary Development pursuant to the Consent Decree solely for the purposes described in Section 1.08 of this Trust Agreement.

ARTICLE IV THE TRUSTEE

Section 4.01. No Duties Except as Specified in this Agreement or in Instructions. The Trustee shall not have any duty or obligation to take any action except as expressly provided by the terms of this Trust Agreement or in any directions given to the Trustee by the Commissioner of IDEM; and no implied duties or obligations shall be read into this Trust Agreement against Trustee.

Section 4.02. Standard of Care; Exculpation. The Trustee shall exercise the rights and powers vested in it by this Trust Agreement. Neither the Trustee nor any of the Trustee's respective shareholders, directors, officers, employees, affiliates, agents, advisors, contractors, successors or assigns shall be liable for any actions taken or omitted to be taken under or in connection with this Trust Agreement, except to the extent that they have acted with negligence, bad faith, misconduct or willful disregard of the provisions of this Trust Agreement, or in breach of the fiduciary duties arising from or relating to this Trust Agreement.

Section 4.03. Indemnification. Except as provided in Section 4.02, above the GDCLF Trust shall be liable as primary obligor for, and shall defend and indemnify the Trustee and its officers, employees and agents from and against, any and all threatened, alleged, or actual

liabilities, obligations, losses, damages, taxes, claims, actions, and suits, brought as a result of any activities taken under or in connection with this Trust Agreement. In no event shall any owner-operator or responsible party under the State or Federal environmental laws be entitled to indemnification or contribution under this Trust Agreement.

Section 4.04. Fees and Expenses of the Trustee. The Trustee shall be entitled to a fee of \$500 per year for managing the GDCLF Trust. In addition, the Trustee shall be entitled to reimbursement for reasonable out-of-pocket expenses incurred by the Trustee hereunder, including reasonable fees and expenses of counsel, that are agreed to in writing in advance by the Commissioner of IDEM. The Trustee shall submit any proposed changes in the amount or rate of any fees to the Commissioner of IDEM for written approval. The Trustee shall have a lien on all unencumbered funds of the GDCLF Trust to secure all amounts owing hereunder to the Trustee, and the claims of the Trustee in respect thereof shall have priority over the rights of all creditors of the GDCLF Trust and Beneficiary for any and all amounts owed to the Trustee hereunder.

Section 4.05. Resignation of the Trustee. The Trustee or any successor Trustee may resign at any time by giving at least three months prior written notice to the Commissioner of IDEM, except that no resignation shall become effective prior to the appointment of, and acceptance of such appointment by, a successor Trustee approved in writing by the Commissioner of IDEM.

Section 4.06. Removal of the Trustee. The Commissioner of IDEM may at any time remove the Trustee with or without cause by giving prior written notice to the Trustee.

Section 4.07. Appointment of Successor Trustee. Any successor Trustee appointed by the Commissioner of IDEM shall execute an instrument accepting such appointment. Thereupon such successor Trustee shall, without any further act, become vested with all the estates, properties, rights, powers, trusts, and duties of the retiring Trustee in the Trust hereunder with like effect as if originally named herein. The retiring Trustee shall execute and deliver an instrument or instruments conveying and transferring to such successor all the estates, properties, rights, powers, and trusts of such retiring Trustee and all property and money held by the retiring Trustee hereunder.

ARTICLE V GENERAL PROVISIONS

Section 5.01. Amendments. This Trust Agreement may be amended by an instrument in writing executed by the Trustee and the Commissioner of IDEM, provided, however, that no amendment shall be made to Sections 1.05(c) and 1.08 of the GDCLF Trust.

Section 5.02. Irrevocability. This Trust shall be absolutely irrevocable by Gary Development, and Gary Development shall not have any right or power to amend, modify, or revoke this Trust Agreement or any of its terms or provisions.

Section 5.03. No Legal Title in Trust by Beneficiary or Gary Development. Neither the Beneficiary in its capacity as Beneficiary nor Gary Development shall have legal title to any part of the Trust Assets.

Section 5.04. Notices and Directions. All notices, directions, requests and other communications to be made to the Commissioner of IDEM shall be sent in writing. All notices to be made to the Trustee by the Commissioner of IDEM shall also be made in writing.

Section 5.05. Severability. If any provision of this Trust Agreement, other than Section 1.08, is held to be illegal, invalid or unenforceable, all other provisions of the Trust Agreement remain in full force and effect, and the Trust Agreement shall be deemed amended to the extent necessary to make the provision enforceable while preserving the provision's intent or, if that is not possible, by substituting another provision that is enforceable and achieves the same objectives and economic result.

Section 5.06. Successors and Assigns. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the parties hereto and their successors and assigns. Any request, notice, direction, consent, waiver or other instrument or action by a party hereto shall bind the successors and assigns of any party hereto.

Section 5.07. Termination of Trust. The GDCLF Trust and this Trust Agreement shall terminate when all funds subject to the Trust have been disbursed and the Commissioner of IDEM authorizes the Trustee in writing to terminate the GDCLF Trust.

Section 5.08. Governing Law. This Trust Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

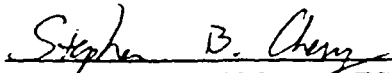
IN WITNESS WHEREOF, the parties have executed this Trust Agreement by and through the signatures of their authorized officials and representatives.

**ON BEHALF OF THE NATIONAL CITY BANK OF INDIANA
TRUSTEE GARY DEVELOPMENT COMPANY
LANDFILL FUND TRUST:**

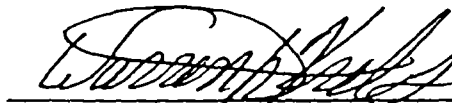
Dated: _____

MARY MARSH
Senior Vice President
National City Bank of Indiana
101 W. Washington Street
Suite 600 East
P.O. Box 5031
Indianapolis, IN 46255:

ON BEHALF OF GARY DEVELOPMENT COMPANY:

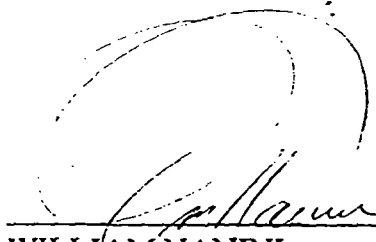

STEPHEN B. CHERRY, ESQ.
LISA MCKINNEY GOLDNER, ESQ.
Bose McKinney & Evans
135 North Pennsylvania Street
Suite 2700
Indianapolis, IN 46202

Dated: 8/14/97


WARREN D. KREBS, ESQ.
Dutton & Overman, P.C.
710 Century Building
36 South Pennsylvania Street
Indianapolis, IN 46204

Dated: 8/20/97

ATTORNEYS FOR GARY DEVELOPMENT COMPANY, INC.


WILLIAM NANINI
President and Director
Gary Development Company, Inc.

Dated: 7-3-97

ON BEHALF OF THE COMMISSIONER OF IDEM:

MICHAEL O'CONNER
Commissioner
Indiana Department of Environmental Management

Dated: _____

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

GARY DEVELOPMENT COMPANY,
INC.,

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Defendant.

Case No. 2:96CV489 RL

DECLARATION OF WILLIAM NANINI IN SUPPORT OF
CONSENT DECREE BETWEEN GARY DEVELOPMENT COMPANY, INC.
AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

I, William Nanini, pursuant to 28 U.S.C. § 1746, declare and state the following:

1. I am President, Director and a shareholder of Gary Development Company, Inc. ("Gary Development"). Gary Development is the plaintiff in the above-captioned and numbered case. I am fully authorized to submit this declaration on behalf of Gary Development.

2. I hereby state that Gary Development is not able to comply with the requirements set forth in EPA's May 30, 1986 Complaint and Compliance Order, beyond the compliance provided for in the Consent Decree agreed upon by Gary Development and EPA.

3. In connection with the parties' settlement discussions,

I acknowledge that the EPA has requested and obtained evidence of the financial condition of Gary Development. To the best of my knowledge, Gary Development has provided through its counsel and/or its accountants all requested necessary and relevant information to EPA, including financial documents concerning Gary Development's divisions, directors and employees, bearing on Gary Development's ability to comply with the requirements of EPA's May 30, 1986 Complaint and Compliance Order.

4. I understand that the EPA has agreed to certain terms of settlement, including the agreement that, assuming certain requirements of the settlement are fulfilled, EPA shall not seek administrative or civil judicial enforcement of the injunctive relief contained in its May 30, 1986 Complaint and Compliance Order. I further understand that EPA's agreement to the terms of settlement is expressly conditioned on the accuracy, truthfulness and completeness of the information provided to EPA by Gary Development through its counsel and/or its accountants, regarding Gary Development's financial condition.

5. To the best of my knowledge, the information provided to EPA regarding Gary Development's financial condition is accurate, truthful and complete.

6. I am aware of no plans, agreements or negotiations, beyond that previously disclosed to EPA, which would improve the financial condition of Gary Development and enable it to comply with the terms of the Decision and Order, beyond the compliance provided for in the Consent Decree agreed upon by Gary

Development and EPA.

7. Except insofar as its counsel has otherwise disclosed to the United States in conjunction with the entry of the Consent Decree in this matter, at no time since EPA's issuance of the May 30, 1986 Complaint and Compliance Order has Gary Development transferred assets to its directors, officers, shareholders, general partners, persons in control of Gary Development, or relatives of such persons; nor has Gary Development transferred assets to any subsidiaries, affiliated entities, parent corporations, or partnerships in which it is a general partner.

8. I acknowledge that, in the event Gary Development, including its counsel and/or its accountants, has provided EPA with information relevant to its financial condition which is false in any material respect, or in the event Gary Development has failed to provide all necessary and relevant information to EPA concerning Gary Development's ability to satisfy the terms of the Decision and Order, EPA's obligations under the settlement shall be nullified and EPA shall be free to pursue any and all claims available to it under law, including any and all claims arising out of Gary Development's satisfaction of the terms of the Decision and Order.

9. The statements set forth in paragraphs 5-8 above are based upon the information provided and representations made on financial reports by my accountant, Stephen E. Koons.

I affirm under penalty of perjury and upon personal

knowledge that the contents of the foregoing are true and correct.

Executed this 3RD day of June, 1997, at Tucson. AZ



WILLIAM NANINI

ATTACHMENT A

TRUST AGREEMENT FOR GARY DEVELOPMENT COMPANY LANDFILL FUND

This Trust Agreement is made among Gary Development Company, Inc. ("Gary Development") and National City Bank of Indiana, as Trustee of the Trust, which shall also be known as the Gary Development Company Landfill Fund Trust ("GDCLF Trust"), for the benefit of the Indiana Department of Environmental Management ("IDEM"), the Beneficiary.

WHEREAS, Gary Development owns and operates a landfill at 479 North Cline Avenue in Lake County, Gary, Indiana (the "Site");

WHEREAS, Gary Development officially ceased operations and stopped accepting waste on August 31, 1989;

WHEREAS, on May 30, 1986, Region 5 of the United States Environmental Protection Agency ("EPA") issued a Complaint and Compliance Order against Gary Development, alleging that the company had unlawfully accepted hazardous waste for disposal at the landfill which had neither achieved interim status under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901-6992k, nor obtained a RCRA permit;

WHEREAS, the Indiana State Board of Health, the predecessor to the IDEM, referred the alleged violations asserted in the May 30, 1986 Complaint and Compliance Order to EPA, Region 5 for enforcement;

WHEREAS, on April 8, 1996, the administrative law judge issued a Decision and Order in favor of EPA ("April 8, 1996 Decision and Order");

WHEREAS, on June 21, 1996, Gary Development appealed the Decision and Order to EPA's Environmental Appeals Board ("EAB");

WHEREAS, on August 16, 1996, the EAB dismissed the appeal as untimely;

WHEREAS, on September 16, 1996, Gary Development commenced a civil action in the United States District Court for the Northern District of Indiana captioned Gary Development Company, Inc. v. United States Environmental Protection Agency, Case No. 2:96CV489 RL ("Civil Action");

WHEREAS, Gary Development alleges in the Civil Action that the EAB wrongfully dismissed its appeal as untimely and requested the Court to reverse the August 16, 1996 decision of the EAB and remand the case for consideration of the merits of its appeal;

WHEREAS, EPA believes that the EAB properly dismissed Gary Development's appeal as untimely under applicable regulations, 40 C.F.R. Part 22;

WHEREAS, Gary Development has represented to EPA that it does not have sufficient financial resources to comply with the April 8 1996 Decision and Order;

WHEREAS, EPA and Gary Development have entered into a Consent Decree in order to settle the Civil Action (the "Consent Decree");

WHEREAS, IDEM has been informed of the terms of the Consent Decree;

WHEREAS, Gary Development has agreed in the Consent Decree, among other things, to pay \$40,000 into the GDCLF Trust established by this Trust Agreement;

WHEREAS, the sole purpose of the GDCLF Trust established under this Trust Agreement is to fund landfill closure and post-closure care activities, a groundwater quality assessment program, remediation of contamination and/or the prevention of the release of hazardous substances at the Site; and

WHEREAS, Gary Development, wishing to appoint National City Bank of Indiana, as Trustee of said funds, and National City Bank of Indiana, wishing to accept said appointment, and Gary Development wishing to establish the terms of said trust relationship, have entered into this Trust Agreement and desire to place same on the public record.

NOW THEREFORE, in consideration of the mutual promises, covenants, terms, conditions and agreements contained herein, the parties hereto agree as follows:

ARTICLE I ESTABLISHMENT OF THE TRUST

Section 1.01 Name. The Trust created by this Trust Agreement shall be known as the "Gary Development Company Landfill Fund Trust," or "GDCLF Trust," and the business and affairs of the Trust may be transacted in that name.

Section 1.02 Trustee. The Trustee of the GDCLF Trust is the National City Bank of Indiana, 101 W. Washington Street, Suite 600 East, P.O. Box 5031, Indianapolis, IN 46255.

Section 1.03 Beneficiary. The Beneficiary of the GDCLF Trust is the Indiana Department of Environmental Management ("IDEM").

Section 1.04 Commissioner of IDEM. "Commissioner of IDEM" means the Commissioner of IDEM and the Commissioner of IDEM's authorized representatives.

Section 1.05. Transfer of Assets to Trust.

(a) Gary Development hereby absolutely and irrevocably assigns, conveys and transfers to the GDCLF Trust, for the benefit of the Beneficiary, \$40,000 paid pursuant to paragraph 13 of the Consent Decree. Simultaneous with the creation of the GDCLF Trust, Gary Development shall pay \$20,000 into the GDCLF Trust account. Gary Development will pay an additional \$20,000 into the GDCLF Trust account fifteen (15) days thereafter.

(b) The \$40,000 paid pursuant to the Consent Decree, plus any other funds, tangibles, intangibles, real or personal property paid or transferred into the GDCLF Trust from any other source, including any proceeds, revenues, or interest collected by or paid into the GDCLF Trust, shall collectively be referred to herein as the "Trust Assets."

(c) Gary Development has funded the GDCLF Trust pursuant to a requirement in the Consent Decree. With the exception of the obligation to establish and fund the GDCLF Trust as provided herein and in the Consent Decree, Gary Development shall have no rights, duties, obligations, liabilities, or fiduciary responsibilities of any kind in any way connected or related to the GDCLF Trust, or with management of the GDCLF Trust, the use of funds held in the GDCLF Trust, property acquired with GDCLF Trust funds, or activities, work, or projects funded by the GDCLF Trust. This Trust is irrevocable and Gary Development retains no interest whatsoever in the corpus or proceeds of this Trust.

Section 1.06. Acceptance of Trust. The GDCLF Trust Trustee hereby accepts the Trust imposed upon it by this Trust Agreement and agrees to observe and perform that Trust, upon and subject to the terms and conditions set forth herein, in a fiduciary capacity for the benefit of the Beneficiary.

Section 1.07. The Trust Assets. The GDCLF Trust Trustee shall hold all of the Trust Assets in trust, to be administered and disposed of by the GDCLF Trust Trustee pursuant to the terms of this Trust Agreement.

Section 1.08. Purpose of Trust. The GDCLF Trust is organized for the purpose of performing landfill closure and post-closure care activities in accordance with 329 I.A.C. 3.1-10-1 & 3.1-10-2, incorporating by reference 40 C.F.R. Subpart G & § 265.310, and any amendments that may be made to these sections of the Indiana Administrative Code; a groundwater quality assessment program in accordance with 329 I.A.C. 3.1-10-1 & 3.1-10-2, incorporating by reference 40 C.F.R. Subpart F, and any amendments that may be made to these sections of the Indiana Administrative Code; remediation of contamination and/or the prevention of the release of hazardous substances at the Site.

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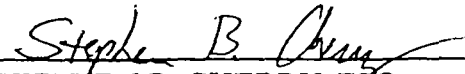
Section 5.04. Notices and Directions. All notices, directions, requests and other communications to be made to the Commissioner of IDEM shall be sent in writing. All notices to be made to the Trustee by the Commissioner of IDEM shall also be made in writing.

Section 5.05. Severability. If any provision of this Trust Agreement, other than Section 1.08, is held to be illegal, invalid or unenforceable, all other provisions of the Trust Agreement remain in full force and effect, and the Trust Agreement shall be deemed amended to the extent necessary to make the provision enforceable while preserving the provision's intent or, if that is not possible, by substituting another provision that is enforceable and achieves the same objectives and economic result.

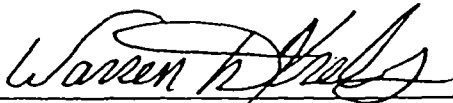
Section 5.06. Successors and Assigns. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the parties hereto and their successors and assigns. Any request, notice, direction, consent, waiver or other instrument or action by a party hereto shall bind the successors and assigns of any party hereto.

Section 5.07. Termination of Trust. The GDCLF Trust and this Trust Agreement shall terminate when all funds subject to the Trust have been disbursed and the Commissioner of IDEM authorizes the Trustee in writing to terminate the GDCLF Trust.

ON BEHALF OF GARY DEVELOPMENT COMPANY:



STEPHEN B. CHERRY, ESQ.
LISA MCKINNEY GOLDNER, ESQ.
Bose McKinney & Evans
135 North Pennsylvania Street
Suite 2700
Indianapolis, IN 46202

Dated: 8/14/97


WARREN D. KREBS, ESQ.
Dutton & Overman, P.C.
710 Century Building
36 South Pennsylvania Street
Indianapolis, IN 46204


Dated: 8/20/97

ATTORNEYS FOR GARY DEVELOPMENT COMPANY, INC.


WILLIAM NANINI
President and Director
Gary Development Company, Inc.

Dated: 7-3-97

ON BEHALF OF THE COMMISSIONER OF IDEM:

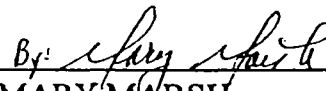

~~XXXXXXXXXXXX~~ John Hamilton
Commissioner *JH*
Indiana Department of Environmental Management

Dated: 8/26/97

Section 5.08. Governing Law. This Trust Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

IN WITNESS WHEREOF, the parties have executed this Trust Agreement by and through the signatures of their authorized officials and representatives.

**ON BEHALF OF THE NATIONAL CITY BANK OF INDIANA
TRUSTEE GARY DEVELOPMENT COMPANY
LANDFILL FUND TRUST:**

By: 
MARY MARSH

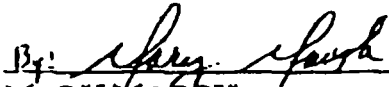
Senior Vice President
National City Bank of Indiana
101 W. Washington Street
Suite 600 East
P.O. Box 5031
Indianapolis, IN 46255

Dated: 8/28/97

Section 5.08. Governing Law. This Trust Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

IN WITNESS WHEREOF, the parties have executed this Trust Agreement by and through the signatures of their authorized officials and representatives.

**ON BEHALF OF THE NATIONAL CITY BANK OF INDIANA
TRUSTEE GARY DEVELOPMENT COMPANY
LANDFILL FUND TRUST:**

By: 
MARY MARSH
Senior Vice President
National City Bank of Indiana
101 W. Washington Street
Suite 600 East
P.O. Box 5031
Indianapolis, IN 46255.

Dated: 8/28/97

196407-332
STATE OF INDIANA
OFFICE OF THE SECRETARY OF STATE

CERTIFICATE OF DISSOLUTION

To Whom These Presents Come, Greeting:

WHEREAS, there has been presented to me Articles of Dissolution for

GARY DEVELOPMENT CO INC

pertaining to the dissolution of said Corporation by Act of the Corporation;

WHEREAS, said Articles of Dissolution have been prepared and signed in accordance with the Indiana Business Corporation Law, as amended.

WHEREAS, upon due examination, I find that they conform to law:

NOW, THEREFORE, I, SUE ANNE GILROY, Secretary of State, hereby certify that I have this day endorsed my approval upon such copies of Articles so presented, and, having received the fees required by law, have filed one copy of the Articles in this office and returned the remaining copy bearing the endorsement of my approval to the corporation.

The effective date of this dissolution is April 07, 1998.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the State of Indiana, at the City of Indianapolis, this Seventh day of April, 1998


Deputy

196907-332

ARTICLES OF DISSOLUTION

OF

GARY DEVELOPMENT CO., INC.

APPROVED
AND
FILED
IND. SECRETARY OF STATE

The above corporation (hereinafter referred to as the "Corporation") desiring to give notice of corporate action authorizing and effectuating the dissolution of the Corporation pursuant to the provisions of the Indiana Business Corporation Law, sets forth the following:

RECEIVED
CONT. DIV.
20 APR - 7 AM 1:15
ISSUE 1116 G ROY

ARTICLE I - NAME

Name of Corporation:

GARY DEVELOPMENT CO., INC.

Date of Incorporation:

July 23, 1969

ARTICLE II - AUTHORIZATION

The date the dissolution was authorized pursuant to Indiana Code 23-1-45-2:

MARCH 4, 1998

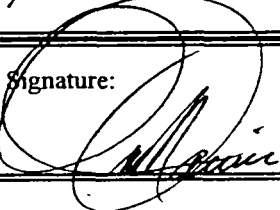
ARTICLE III - VOTE OF SHAREHOLDERS

The shareholders of the Corporation unanimously voted in favor of the dissolution and the total number of votes cast for dissolution was sufficient for approval.

In Witness Whereof, the undersigned being the Officer of said Corporation executes these Articles of Dissolution and verifies, subject to the penalties of perjury that the statements contained herein are true, this

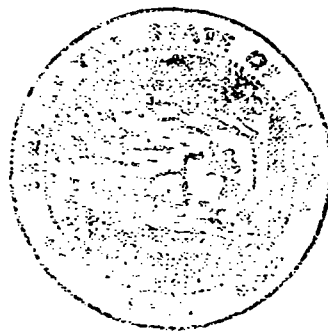
4th day of MARCH, 1998.

Signature:



Printed Name:

William M. Nanini, President



STATE OF INDIANA
Office of the Secretary of State

I hereby certify that this is a true and complete copy of the
two (2) page document(s)
as filed in this office.

DATED Jan 15, 1999

Joe Conrad Murray
Secretary of State

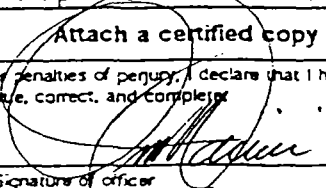
By: [Signature]

This Certification Stamp replaces our previous Certification
System.

Form **966****Corporate Dissolution or Liquidation**(Rev. December 1995)
Department of the Treasury
Internal Revenue Service

(Required under section 6043(a) of the Internal Revenue Code)

OMB No. 1545-0041

Please type or print	Name of corporation Gary Development Co., Inc.			Employer identification number 35-1302618	
	Number, street, and room or suite no. (If a P.O. box number, see instructions below.) 2120 West Ina Road, Suite 200			Check type of return <input checked="" type="checkbox"/> 1120 <input type="checkbox"/> 1120-L <input type="checkbox"/> 1120-IC-DISC <input type="checkbox"/> 1120S <input type="checkbox"/> Other ▶	
	City or town, state, and ZIP code Tuscon, AZ 85741				
1	Date incorporated 9/30/73	2	Place incorporated Indiana	3	Type of liquidation <input checked="" type="checkbox"/> Complete <input type="checkbox"/> Partial
5	Service Center where corporation filed its immediately preceding tax return	6	Last month, day, and year of immediately preceding tax year 6/30/97	7a	Last month, day, and year of final tax year 11/30/97
7b	Was corporation's final tax return filed as part of a consolidated income tax return? If "Yes," complete 7c, 7d, and 7e. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
7c	Name of common parent N/A			7d	Employer identification number of common parent N/A
7e	Service Center where consolidated return was filed N/A				
8	Total number of shares outstanding at time of adoption of plan of liquidation			Common 2030	Preferred -0-
9	Date(s) of any amendments to plan of dissolution			N/A	
10	Section of the Code under which the corporation is to be dissolved or liquidated			336	
11	If this return concerns an amendment or supplement to a resolution or plan, enter the date the previous Form 966 was filed			N/A	
Attach a certified copy of the resolution or plan and all amendments or supplements not previously filed.					
Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.					
Signature of officer 			Title William M. Nanini, President		Date 1-3-4-98

Instructions

Paperwork Reduction Act Notice.—We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping 5 hr., 1 min.
Learning about the law or the form 6 min.
Preparing and sending the form to the IRS 11 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. DO NOT send the tax form to this office. Instead, see When and Where To File on this page.

Who Must File.—A corporation must file Form 966 if it adopts a resolution or plan to dissolve the corporation or liquidate any of its stock. Exempt organizations are not required to file Form 966. These organizations should see the Instructions for Form 990 or 990-PF.

When and Where To File.—File Form 966 within 30 days after the resolution or plan is adopted to dissolve the corporation or liquidate any of its stock. If the resolution or plan is amended or supplemented after Form 966 is filed, file another Form 966 within 30 days after the amendment or supplement is adopted. The additional form will be sufficient if the date the earlier form was filed is entered on line 11 and a certified copy of the amendment or supplement is attached. Include all information required by Form 966 that was not given in the earlier form.

File Form 966 with the Internal Revenue Service Center where the corporation is required to file its income tax return.

Distribution of Property.—A corporation must recognize gain or loss on the distribution of its assets in the complete liquidation of its stock. For purposes of determining gain or loss, the distributed assets are valued at fair market value. Exceptions to this rule apply to liquidation of a subsidiary and to a distribution that is made pursuant to a plan of reorganization.

Address.—Include the suite, room, or other unit number after the street address. If mail is not delivered to the street address and the corporation has a P.O. box, enter the box number instead of the street address.

Signature.—The return must be signed and dated by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other corporate officer (such as tax officer) authorized to sign. A receiver, trustee, or assignee must sign and date any return required to be filed on behalf of a corporation.



U.S. Department of Justice

Environment and Natural Resources Division

LJG:JML

90-7-2-532

Environmental Defense Section

P.O. Box 23986

Washington, DC 20026-3986

Telephone (202) 514-4198

Facsimile (202) 514-8865

July 22, 1999

VIA FIRST CLASS MAIL

Lisa McKinney Goldner, Esq.
Bose McKinney & Evans
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, IN 46204

Re: Gary Development Company, Inc. v. U.S. Environmental Protection Agency, Civil Action No. 2:96CV489-RL (N.D. Ind.)


Dear Ms. Goldner:

In accordance with your request, this letter confirms that, as determined by U.S. EPA, your client, Gary Development Company, Inc., has paid the full \$86,000 penalty and contributed \$40,000 into the GDCLF Trust, as required by paragraphs 8 and 13 of the consent decree entered July 7, 1997. The U.S. EPA has also determined that Gary Development has provided it with copies of its federal and state tax returns, in accordance with paragraph 17 of the Consent Decree.

Accordingly, the U.S. EPA considers this action between the parties closed, subject to the "reservation of rights" and the "reopener" provisions contained in sections IX and X of the Consent Decree.

I trust that this letter shall satisfy your client's concerns. Please contact me if you have any questions or comments.

Sincerely,


Joshua M. Levin, Trial Attorney
Environmental Defense Section
P.O. Box 23986
Washington, D.C. 20026-3986
(202) 514-4198

cc: Diana Embil, Esq.